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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/599,283      | 09/25/2006  | Norbert Becker       | 03869.105634        | 6477             |

86528 7590 05/02/2011  
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Suite 3200  
Austin, TX 78701

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| EXAMINER |
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ROSENBAUM, MARK

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3725

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|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

05/02/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

AustinUSPTO@kslaw.com  
AustinIP@kslaw.com

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/599,283 | <b>Applicant(s)</b><br>BECKER ET AL. |  |
|                              | <b>Examiner</b><br>Mark Rosenbaum    | <b>Art Unit</b><br>3725              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,19,22,23,25-30,32,34,35,37-41 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45 is/are allowed.
- 6) ☒ Claim(s) 1,3-9,19,22,23,25-30,32,34,35,37-41,43,44,46 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 45 is allowed.

### ***Claim Rejections - 35 USC § 102***

Claim 46 is rejected under 35 U.S.C. 102(b) as being anticipated by Earle. This patent shows in figure 4 a control device to oscillate a grinding pipe/drum.

Claim 46 is rejected under 35 U.S.C. 102(b) as being anticipated by Siegmann. This patent shows apparatus for oscillating a rotatable drum in order to remove a frozen charge from the interior wall of the drum. Note that the particular use of the drum is not further limiting to these claims.

### ***Claim Rejections - 35 USC § 103***

Claims 1,3-9,19,22,23,25-30,32,34,35,37-41,43,44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (APA) in view of Siegmann. APA is the process and apparatus and its problems discussed early in the specification. This includes the use of a rotating grinding pipe/drum to crush material. A problem exists in that at times material will be 'frozen' along part of the interior wall of the drum which may result in damaged apparatus. Siegmann solves this problem by disclosing similar process and apparatus including a rotating drum that may have material 'frozen'

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along the interior wall of the drum, and resolution of the problem by oscillating the drum to free the frozen material. Therefore, in order to solve the 'frozen' material problem, it would have been obvious for one of ordinary skill in the art to modify APA by providing oscillating means for the drum, taught to be desirable by Siegmann. The remaining limitations would then have been obvious modifications by one skilled in the art, as they all deal with the degree of oscillation which would have been obvious once the oscillation concept was known as in Siegmann e.g. certain materials may require different degrees of oscillation, the amount of material frozen would dictate the number of oscillatory movements need to unfreeze the material, etc.

### ***Response to Arguments***

Applicant's arguments filed 4/18/11 have been fully considered but they are not persuasive. Concerning claim 46, the wetting of the frozen charge is a method limitation and does not further limit the claimed apparatus elements.

APA discloses the starting point of the drum and the location of the charge at the starting point. Siegmann is used to show the concept of oscillating a drum to dislodge a 'frozen' charge. One skilled in the art would be able to use the concept taught in Siegmann to oscillate the drum of APA to dislodge the frozen charge of APA.

The dependent claims were not separately argued such that their patentability stands or falls with the parent claims. Furthermore, even if they were separately argued, they are simply obvious modifications of how to apply the concept of Siegmann to APA to solve the APA problem.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Rosenbaum  
Primary Examiner  
Art Unit 3725

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Primary Examiner, Art Unit 3725